UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/1997/587
25 July 1997
ENGLISH
ORIGINAL: ARABIC

LETTER DATED 24 JULY 1997 FROM THE PERMANENT REPRESENTATIVE OF IRAQ TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

On instructions from my Government, I have the honour to transmit to you the attached letter dated 22 July 1997 from Mr. Mohammed Said Al-Sahaf, Minister for Foreign Affairs of the Republic of Iraq, containing examples of category "F" claims filed by Governments. These claims are excessive and without any legal basis and are designed to prejudice the Iraqi economy and to obstruct the Iraqi people's right to life and development.

I should be grateful if you would have this letter and the attached letter from the Minister for Foreign Affairs of the Republic of Iraq circulated as a document of the Security Council.

(Signed) Nizar HAMDOON
Ambassador
Permanent Representative

97-20368 (E) 280797 280797

/...

Annex

Letter dated 22 July 1997 from the Minister for Foreign Affairs of Iraq addressed to the Secretary-General

I wish to draw your attention to some of the category "F" claims filed by Governments with the United Nations Compensation Commission contained in the nineteenth report submitted by the Executive Secretary to the Governing Council of the Commission (A/AC.26/1997/R.7), dated 11 April 1997. Paragraphs 18 to 32 of the report contained the following claims for compensation:

"18. The Kuwait Audit Bureau alleges that the majority of its employees were not able to work during the occupation period and for the three months immediately following liberation. Nevertheless, the Audit Bureau paid its Kuwaiti employees and the employees from Gulf Cooperation Council ("GCC") countries, but not its non-Kuwaiti and non-GCC employees, their accrued wages, including salaries and benefits, for the period of the occupation and three months thereafter. As a result, the Audit Bureau claims that it did not receive a benefit in return for its payment of such salaries. The Audit Bureau states that its payment of such salaries and benefits to Kuwaiti and GCC citizens was mandated by decisions made by Kuwait's Council of Ministers on 6 May 1991 and 4 November 1991. Other than the decisions of Kuwait's Council of Ministers, the Audit Bureau does not allege that it was under any legal or contractual obligation to make such payments. The issue raised is whether the Audit Bureau's payment of salaries and benefits to its Kuwaiti and GCC employees, made in accordance with a post-liberation decision of Kuwait's Council of Ministers, constitutes a loss directly caused by Iraq's invasion and occupation of Kuwait.

"19. On 1 July 1990, the Audit Bureau pre-paid rent on the office space that it intended to occupy in Kuwait City for the following twelve month period. During the seven month Iraqi occupation period and for four months following liberation, the Audit Bureau was unable to use its rented offices. It now seeks compensation for the pre-paid rent it expended for the eleven months that it was unable to use its offices. The issue raised is whether the loss of use of offices in Kuwait City during the occupation period and immediately thereafter is a loss directly caused by Iraq's invasion and occupation of Kuwait.

"20. The Audit Bureau states that due to a lack of contractors, suppliers, supplies and funding after the end of the occupation of Kuwait, the completion of its new office building, which was originally scheduled for January 1992, was delayed until October 1994. Consequently, the Audit Bureau states that it was required to rent office space during the period of the delay in construction. Moreover, under the terms of its lease, the Audit Bureau states that it was required to pay rent for three months after its new office building was completed. Finally, the Audit Bureau claims that due to an increase in the size of its staff, who could have been accommodated in its new building, it was required to rent additional space. The Audit Bureau seeks compensation for all such rent that it incurred following the liberation of Kuwait. The issues raised include: (a) does

the rent paid by a government entity for its offices constitute a loss directly caused by Iraq's invasion and occupation of Kuwait where the rent was incurred because of a delay in the construction of the government entity's office building caused by the conditions of the post-liberation construction market in Kuwait City; (b) does rent paid under a lease negotiated by a government entity for office space which was not actually used constitute a loss directly caused by Iraq's invasion and occupation of Kuwait; and (c) does rent paid in July 1993 by a government entity for additional office space to accommodate growth in its staff constitute a loss directly caused by Iraq's invasion and occupation of Kuwait.

"21. The Audit Bureau claims that two engineers on its staff were required to spend 50 per cent of their time supervising the construction of the bureau's new office building and were thus unable to spend such time on their regular jobs. Due to the delay in the completion of its building, caused by the lack of contractors, suppliers, supplies and funding in post-liberation Kuwait City, the Bureau states that it incurred a loss valued at 50 per cent of the salaries it paid to the engineers for the period of the delay. The issue raised is whether the salaries paid by a government entity to its staff members supervising the construction of a building during a period of delay in the construction constitute a loss directly caused by Iraq's invasion and occupation of Kuwait.

"22. Following Iraq's invasion of Kuwait, one claimant's ambassador to the Kingdom of Saudi Arabia incurred costs as he travelled to various locations within the Kingdom to meet with his country's nationals, to brief them on developments in the Persian Gulf region and to plan their evacuation from Saudi Arabia. The issue raised is whether the cost of such activities in Saudi Arabia constitutes a loss directly caused by Iraq's invasion and occupation of Kuwait.

"23. Following Iraq's invasion of Kuwait, one claimant purchased protective suits and masks, canisters, medicine, jerry cans, batteries, wires, torches, TV cable, adapters, plastic, adhesive tape, walkie-talkies, chemical warfare books and radios for its embassy in Tel Aviv, Israel. The claimant also purchased blankets, mattresses, a gas cooker and emergency lights for its mission in Riyadh, Saudi Arabia. The claimant also installed a shortwave radio at its consulate in Abu Dhabi and, following the liberation of Kuwait, paid to have the radio shipped back to its home country. Additionally, the claimant sent chemical warfare protection equipment and other medical and emergency supplies to its diplomatic missions in Tehran, Iran; Baghdad, Iraq; Damascus, Syria; and Riyadh, Saudi Arabia. Another claimant made similar purchases for its embassy in Amman, Jordan. The issue raised is whether the cost of such items constitutes a loss directly caused by Iraq's invasion and occupation of Kuwait.

"24. One claimant permitted its embassy personnel in Damascus, Syria and Tel Aviv, Israel to make 10 minute weekly phone calls at embassy expense to their families abroad during the period of Iraq's occupation of Kuwait. The issue raised is whether the cost of such phone calls constitutes a loss directly caused by Iraq's invasion and occupation of Kuwait.

"25. One claimant incurred the cost of providing food and beverages to security personnel guarding its ambassador's residence in Damascus, Syria during the period of Iraq's occupation of Kuwait. The issue raised is whether the costs associated with providing security in Syria for a claimant's ambassador constitute a loss directly caused by Iraq's invasion and occupation of Kuwait.

"26. One claimant set up an Iraq/Kuwait 'task force' at its department of foreign affairs headquarters. The task force was responsible for coordinating the role in the management of the department's functions relating to the invasion and subsequent armed conflict. The task force was staffed on a 24 hour, seven day a week basis. The claimant seeks compensation for the cost of operating the task force. The issue raised is whether the establishment of a task force within a department of foreign affairs to coordinate the department's diplomatic activities in response to the situation in the Persian Gulf constitutes a loss directly caused by Iraq's invasion and occupation of Kuwait.

"27. One claimant sent its department of foreign affairs diplomats on missions to consult with the Kuwaiti government in exile and other governments during the period of Iraq's occupation of Kuwait and now seeks compensation for the costs incurred during these missions. The issue raised is whether such costs constitute a loss directly caused by Iraq's invasion and occupation of Kuwait.

"28. One claimant seeks compensation for the costs that it incurred in making overtime payments to its staff members at its embassies in Iraq and Jordan in the period following Iraq's invasion of Kuwait. The issue raised is whether the payment of overtime salaries to embassy personnel in Iraq and Jordan constitutes a loss directly caused by Iraq's invasion and occupation of Kuwait.

"29. After evacuating its diplomats from its embassy in Baghdad, Iraq, one claimant sent these diplomats on short term missions to other countries in Europe and the Middle East. The claimant now seeks compensation for the travel and accommodation costs it incurred in sending its diplomats on such short term missions to other countries. The issue raised is whether the cost of sending diplomats to other countries after the claimant evacuated its embassy in Baghdad constitutes a loss directly caused by Iraq's invasion and occupation of Kuwait.

"30. One claimant seeks compensation for the cost of sending one of its department of foreign affairs employees to attend chemical weapons training at the Army School of Military Engineering in Liverpool, England during the period of Iraq's occupation of Kuwait. The issue raised is whether the cost of sending an employee to chemical weapons training in England constitutes a loss directly caused by Iraq's invasion and occupation of Kuwait.

"31. One claimant sent its staff to various cities within its country to brief the relatives and employers of hostages held in Iraq on the status of the hostages. It now seeks compensation for the cost incurred in liaising

with such persons regarding the fate of their relatives and employees held hostage in Iraq. The issue raised is whether the cost of briefing the relatives and employers of hostages held in Iraq by the Government of Iraq constitutes a loss directly caused by Iraq's invasion and occupation of Kuwait.

"32. One claimant provided emergency funds to its citizens who were in financial difficulty in Kuwait following Iraq's invasion. The issue raised is whether the provision of such relief constitutes a loss directly caused by Iraq's invasion and occupation of Kuwait."

The least that can be said of the claims set forth above is that they are excessive and include absurd claims with no legal basis. They conceal political goals, the foremost of which is to prejudice the requirements of the Iraqi people and its fundamental interests, destroy its national economy and profit unlawfully at its expense. This amounts to a deliberate insistence on the impoverishment of that people and the obstruction of its right to life and development, which conflicts with the most basic precepts of international law and the principles of justice and impartiality, and even with relevant Security Council resolutions, including resolution 687 (1991). In relation to compensation, this resolution directs that the requirements of the people of Iraq should be taken into account, together with Iraq's payment capacity and the needs of the Iraqi economy.

While stressing its good faith and determination to abide by its legal obligations with regard to compensation, the Iraqi Government stresses that compliance with those obligations should be on the basis of the provisions of international law and the principle of equity. It therefore expresses its profound astonishment that the United Nations Compensation Commission should accept the aforementioned compensation claims, which the Government considers leave the field wide open for many other unlawful and exaggerated claims that will severely prejudice the Iraqi people and their legitimate rights.

I should be grateful if you would have this letter circulated as a document of the Security Council.

Accept, Sir, the assurances of my highest consideration.

(Signed) Mohammed Said AL-SAHAF
Minister for Foreign Affairs
of the Republic of Iraq